

# **EXHIBIT E**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

RICARDO R. GARCIA, DUANE K.	)	Case No.: 1:19-cv-00331-LO-MSN
GLOVER, PAUL E. JACOBSON,	)	
GAETANO CALISE, MYKHAYLO I.	)	
HOLOVATYUK, BRIAN GARCIA, PAUL	)	
THOMSON and DAVID HARTMAN on	)	
behalf of themselves and all others similarly	)	
situated,	)	
	)	
Plaintiffs,	)	<b>PLAINTIFFS' SECOND REQUESTS</b>
v.	)	<b>FOR PRODUCTION TO DEFENDANT</b>
	)	<b>VOLKSWAGEN GROUP OF</b>
VOLKSWAGEN GROUP OF AMERICA,	)	<b>AMERICA, INC.</b>
INC. a/k/a AUDI OF AMERICA, INC., and	)	
VOLKSWAGEN	)	
AKTIENGESELLSCHAFF,	)	
	)	
Defendants.	)	

**TO: COUNSEL FOR DEFENDANT VOLKSWAGEN GROUP OF AMERICA, INC.  
a/k/a AUDI OF AMERICA, INC.**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (the “Federal Rules”), Plaintiffs, on behalf of themselves and all others similarly situated, by and through their undersigned counsel, propounds this Request for Production to Defendant Volkswagen Group of America, Inc. a/k/a Audi of America, Inc. to be answered as required by the Federal Rules, but as limited to a shortened 14-day time in which to respond as agreed upon by counsel for the parties during a conference call on June 17, 2020.

## DEFINITIONS

The following definitions shall apply to these Requests. In the event of ambiguity in one or more of the following definitions, common usage and reference to any cited rules, statutes, or regulations should be used to provide the broadest interpretation of the term in question:

1. “You” or “VWGOA” means Defendant Volkswagen Group of America, Inc. a/k/a Audi of America, Inc., as well as its subsidiaries, parent companies, affiliates, predecessors, successors, representatives, agents, employees, experts, investigators, attorneys, insurers, and/or any other person or entity acting on its behalf, at its instance, or under its control.
2. “VWAG” means Defendant Volkswagen Aktiengesellschaft, as well as its subsidiaries, parent companies, affiliates, predecessors, successors, representatives, agents, employees, experts, investigators, attorneys, insurers, and/or any other person or entity acting on their behalf, at their instance, or under their control.
3. “Audi AG” means non-party AUDI AKTIENGESELLSCHAFT, as well as its subsidiaries, parent companies, affiliates, predecessors, successors, representatives, agents, employees, experts, investigators, attorneys, insurers, and/or any other person or entity acting in its behalf, at its instance, or under its control.
4. “VW Credit” means non-party VW Credit, Inc., as well as its subsidiaries, parent companies, affiliates, predecessors, successors, representatives, agents, employees, experts, investigators, attorneys, insurers, and/or any other person or entity acting on its behalf, at its instance, or under its control.
5. “Volkswagen” means any one or more of VWGOA, VWAG, Audi AG, and/or VW Credit, each as separately defined herein.
6. “Action” means and refers to the above-captioned action.
7. “Second Amended Complaint” means and refers to the Second Amended Class Action Complaint filed in the above-captioned action on March 27, 2020.
8. “Class Vehicles” means all Volkswagen-branded used cars sold in the United States from January 1, 2007 to March 21, 2019 that were initially used internally by Volkswagen and

later resold by an authorized Volkswagen or Audi dealership as a Certified Pre-Owned (“CPO”) vehicle and which has at least one of the following characteristics at the time it was resold by an authorized Volkswagen or Audi dealership as a Certified Pre-Owned (“CPO”) vehicle: (a) the vehicle is a pre-series, zero series or pre-production car as those terms are more particularly described in paragraphs 34-36 of the Second Amended Complaint; (b) the vehicle is one of the 252 cars identified by Volkswagen in its so-called Part 573 Safety Recall Report filed with the NHTSA on May 16, 2018 (as amended on July 23, 2018); (c) the vehicle had been driven by one or more members of the automotive press and/or media; (d) the vehicle had been driven by one or more Volkswagen employees for short term use as part of the so-called Pool-Fleet (i.e. vehicles assigned to a pool of vehicles that were loaned for the personal use of employees of VWGOA or VWAG prior to being leased to a particular Volkswagen employee); (e) the vehicle was altered after the original date of manufacture; (f) the vehicle’s actual mileage identified by you in connection with the application for the original title was incorrect or otherwise inaccurate; and/or (g) the vehicle is one of the 113 cars identified by you in its so-called Part 573 Safety Recall Report filed with the NHTSA on September 25, 2019 (as amended on December 20, 2019).

9. “Pre-Production Vehicles” means Class Vehicles that are a pre-series, or zero series vehicle, and as is more particularly described in paragraphs 34-36 of the Second Amended Complaint.
10. “Pre-Series Vehicle” means a Class Vehicle that was produced under a method known as the production try-out, which was intended to prove reproducibility, and as is more particularly described in paragraphs 34-36 of the Second Amended Complaint.

11. “Zero-Series Vehicle” means a Class Vehicle produced at the stage after the Pre-Series stage to ensure the process and product quality is at a customer-acceptable product level, and as is more particularly described in paragraphs 34-36 of the Second Amended Complaint.
12. “NHTSA” means the United States National Highway Traffic Safety Administration.
13. “Recalled Vehicle” means a Class Vehicle that was one of the 252 cars identified by VWGOA in its so-called Part 573 Safety Recall Report filed with NHTSA on May 16, 2018 (as amended on July 23, 2018) or a Class Vehicle that was one of the 113 cars identified by Volkswagen in its so-called Part 573 Safety Recall Report filed with the NHTSA on September 25, 2019 (as amended on December 20, 2019).
14. “Press-Fleet Vehicle” means a Class Vehicle that was driven by one or more members of the press before being sold to the public.
15. “Pool-Fleet Vehicle” means a Class Vehicle that Volkswagen assigned to a general pool of vehicles for short-term loans to Volkswagen employees for their personal use before being sold to the public.
16. “Leased-Fleet Vehicle” means a Class Vehicle that was leased to one or more Volkswagen employees before being sold to the public.
17. “Series-Production Vehicles” means vehicles that Volkswagen mass produces and sells to consumers through dealerships, and which are more particularly described in paragraphs 34-36 of the Second Amended Complaint.
18. “VIN” means the Vehicle Identification Number of a vehicle.
19. “Communication” means the transmittal (in the form of facts, ideas, thoughts, opinions, data, inquiries or otherwise) and includes, without limitation, correspondence, memoranda,

reports, presentations, face-to-face conversations, telephone conversations, text messages, instant messages, voice messages, negotiations, agreements, inquiries, understandings, meetings, letters, notes, telegrams, mail, email, and postings of any type.

20. The term “concerning” means constituting, evidencing, reflecting, incorporating, effecting, including, or otherwise pertaining or relating, either directly or indirectly, or being in any way logically or factually connected with the subject matter of the inquiry or Request. Requests for “documents concerning” means any Documents which explicitly or implicitly, in whole or in part, compare, were received in conjunction with, or were generated as a result of the subject matter of the Request, including all Documents which reflect, refer, record, are in regard to, in connection with, specify, memorialize, relate, describe, discuss, consider, constitute, embody, evaluate, analyze, refer to, review, report on, comment on, impinge upon, or impact the subject matter of the Request.
21. “Document” means the original (or, if the information called for cannot be provided as to the original, each and every copy, duplicate or reproduction) of any medium upon which information can be recorded or retrieved, and shall mean, without limitation, any written, recorded or graphic matter, in any language, whether produced or reproduced or stored on paper, cards, tapes, films, computer, electronic storage devices or any other media and includes, without limiting the generality of the foregoing, papers, trade letters, envelopes, telegrams, cables, messages, correspondence, memoranda, notes, electronic mail (“e-mails”), text messages, instant Electronic Messages, reports, Studies, press releases, comparisons, books, accounts, checks, audio and video recordings, pleadings testimony, articles, bulletins, pamphlets, brochures, magazines, questionnaires, surveys, charts, newspapers, calendars, desk calendars, pocket calendars, lists, logs, publications, notices,

diagrams, instructions, diaries, minutes of Meetings, corporate minutes, orders, resolutions, agendas, memorials or notes of oral Communications, whether by telephone or face-to-face, contracts, Agreements, drafts or proposed contracts or Agreements, memoranda of understanding, letters of intent, deal memoranda, transcriptions of audio or video recordings, computer tapes, computer diskettes or disks, or any other tangible thing on which any handwriting, typing, printing, photostatic, electronic or other form of Communication or information is recorded or reproduced, together with all notations on any of the foregoing, all originals, file copies or other unique copies of the foregoing and all versions of drafts thereof, whether used or not.

22. “Electronic Media” means any magnetic, optical, or other storage media device used to record ESI including, without limitation, computer memory, hard disks, floppy disks, flash memory devices, CDs, DVDs, Blu-ray disks, cloud storage (e.g., DropBox, Box, OneDrive, and SharePoint), tablet computers (e.g., iPad, Kindle, Nook, and Samsung Galaxy), cellular or smart phones (e.g., BlackBerry, iPhone, Samsung Galaxy), personal digital assistants, magnetic tapes of all types or any other means for digital storage and/or transmittal.
23. “ESI,” “Electronically Stored Information,” or Electronic Data” means the original (or identical copies when originals are not available) and any non-identical copies (whether different from the originals because of notes made on such copies or otherwise) of Electronic Data of any kind or description, whether inscribed by mechanical, facsimile, electronic, magnetic, digital, or other means. Such data may include, but is not limited to, all text files (including word processing documents), presentation files (such as PowerPoint), spreadsheets, electronic mail files and information concerning electronic

mails (including electronic mail receipts and/or transmittals, logs of electronic mail history and usage, header information, and deleted files), internet history of files and preferences, graphical files in any format, databases, calendar and scheduling information, task lists, telephone logs, contact managers, computer system activity logs, computer programs (whether private, commercial, or work-in-progress), programming notes or instructions, output resulting from the use of any software program including, but not limited to, database files, charts, graphs, outlines, operating systems, source codes of all types, programming languages, linkers and compilers, peripheral drivers, .PDF and .TIFF files, batch files, native files and all ASCII files, and any and all miscellaneous files and/or file fragments, regardless of the medium or media on which they reside and regardless of whether such electronic data is in an active file, deleted file, or file fragment. Electronic Data includes, but is not limited to, any and all items stored on any electronic media, computers, networks or “cloud” computing services and all backup files containing electronically stored data. The term “Electronic Data” also includes the file, folder tabs, metadata, personal electronic backup media, including thumb drives, and/or containers and labels appended to or associated with any physical storage device associated with each such original and/or copy. In addition, the term “Electronic Data” includes all text messages, instant messages, internet messages, intranet messages, electronic bulletin board messages, blog entries, website postings of any nature, and all other methods by which messages may be transmitted by or through electronic means.

24. "Identify" when used to refer to a natural person, shall mean to set forth that person's: (i) full name and title, if any; (ii) present or last known address; (iii) present or last known business and home telephone number(s); and (iv) present or last known employer.



25. "Identify" when used to refer to a document, shall mean: (i) the date of each document; (ii) the type of each such document (i.e. correspondence, memorandum, business record, etc.); (iii) the identity of the author(s) or preparer(s) of each such document; and (iv) the present location of each such document or copies thereof.
26. "Including" is used to illustrate examples of documents that would be responsive to the request and should not be construed as limiting the request in any way.
27. The terms "Plaintiffs" and "Defendant" as well as a party's full or abbreviated name or a pronoun referring to a party means the party and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

#### **RULES OF CONSTRUCTION**

1. "Any," "All," and "Each" shall be construed as any, all and each.
2. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring all responses within the scope of these Requests.
3. The singular form of a noun or pronoun includes the plural form and vice versa.
4. The masculine shall be construed to include the feminine and vice versa.
5. The use of any tense of any verb shall also include within its meaning all other tenses of that verb.
6. A term or word defined herein is meant to include both the lower-and-upper-case reference to such term or word.
7. The "knowledge," "information," "possession," "custody," and "control" by a person shall be construed to include such person's agents, representatives, and attorneys.

### **INSTRUCTIONS**

1. If you or VWAG assert an objection to any Request, you or VWAG must nonetheless respond and produce any responsive documents or ESI that are not subject to the stated objection. If you or VWAG object to part of a Request of category, you or VWAG must specify the portion of the Request to which you or VWAG object and must produce Documents responsive to the remaining parts of the Request.
2. If any Document or ESI is known to have existed but no longer exists, has been destroyed, or is otherwise available, You or VWAG must identify the Document or ESI, the reason for its loss, destruction or unavailability, the name of each person known or reasonably believed by You or VWAG to have present possession, custody, or control of the original and any copy thereof (if applicable), and a description of the disposition of each copy of the document or ESI.

### **DOCUMENT REQUESTS**

**REQUEST NO. 1:** Please produce documents previously produced by VWGOA and/or VWAG in the so-called Dieselgate litigation by granting permission to Counsel for Plaintiffs in this matter (subject to an appropriate protective order if required), to access and use documents currently or formerly housed in the following document production database (limited to only documents produced by VWGOA or VWAG) controlled and/or maintained and/or paid for by VWGOA and/or VWAG: the VW searchable “RATIONAL” database used to house, produce and store documents produced by VWGOA or VWAG responsive to discovery served in the matter of *In Re: Volkswagen “Clean Diesel” Litigation*, Case No.: CL-2016-9917, that is/was pending in Virginia in the Fairfax County Circuit Court.

**REQUEST NO. 2:** Please produce documents previously produced by VWGOA and/or VWAG in the so-called Dieselgate litigation by granting permission to Counsel for Plaintiffs in this matter (subject to an appropriate protective order if required), to access and use documents currently or formerly housed in the following document production database (limited to only documents produced by VWGOA or VWAG): the VW searchable “ILS iCONNECT XERA” database used to house, produce and store documents responsive to discovery served in the matter of *In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices and Products Liability Litigation*, MDL No. 0672 CRB (JSC), that was/I spending in the United States District Court for the Northern District of California.

Dated: June 18, 2020

Respectfully submitted,

/s/ Michael J. Melkersen

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*Attorneys for Plaintiffs and Interim Class  
Counsel*

**CERTIFICATE OF SERVICE**

I, Lisa Ranaldo, hereby certify that on this date I served a true and correct copy of the foregoing Plaintiffs' Second Requests for Production of Documents to Defendant Volkswagen Group of America, Inc. a/k/a Audi of America, Inc.

Dated: June 18, 2020

/s/ Lisa Ranaldo  
Lisa Ranaldo, Paralegal